

NOTICE OF PROPOSED AMENDMENT TO TITLE 15, MINIMUM STANDARDS FOR
LOCAL DETENTION FACILITIES, CALIFORNIA CODE OF REGULATIONS, BY THE
STATE CORRECTIONS STANDARDS AUTHORITY

TITLE 15. CORRECTIONS STANDARDS AUTHORITY

Pursuant to Penal Code Section 6030, the State Corrections Standards Authority (CSA) hereby gives notice of the proposed regulatory action(s) described in this public notice. It is the intent of the CSA to amend and adopt the regulations contained in Title 15, Division 1, Subchapter 4, California Code of Regulations (known as the Minimum Standards for Local Detention Facilities), after considering all comments, objections, and recommendations regarding these regulations.

PUBLIC HEARING

The CSA will hold the following public hearings:

Monday, September 12, 2011
09:00 am
San Diego Sheriff's Department
Headquarters
9621 Ridgehaven Court
San Diego CA 92123

Wednesday, October 5, 2011
09:00 am
660 Bercut Drive
Sacramento CA 95811

Both locations are wheelchair accessible. At the hearings, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The CSA requests, but does not require, that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing. The hearing will remain open only as long as persons in attendance are presenting testimony.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the CSA. The written comment period closes at **5:00 pm on October 3, 2011**. The CSA will consider only comments received at CSA offices by that time. Submit comments to:

Allison Ganter, Field Representative
600 Bercut Drive
Sacramento CA 95811
(916) 445-5073
allison.ganter@cdcr.ca.gov

AUTHORITY AND REFERENCE

Penal Code Section 6030 authorizes the CSA to adopt and amend the proposed regulations, which would implement, interpret, or make specific Sections 6029 and 6030 of the Penal Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws

Sections 6029 and 6030 of the California Penal Code authorize the Corrections Standards Authority to establish standards for local adult and juvenile detention facilities. The standards shall include but not be limited to the following: health and sanitary conditions, fire and life safety, security, rehabilitation programs, recreation, treatment of persons confined in local detention facilities and personnel training. Section 6030 requires the Corrections Standards Authority to review such standards biennially and make any appropriate revisions.

Summary of Existing Regulations

Existing standards which prescribe requirements for local detention facilities are promulgated by the Corrections Standards Authority. These regulations are contained in Title 15 – Crime Prevention and Corrections, Division 1, Chapter 1, Subchapter 4 of the California Code of Regulations (CCR).

Summary of Effect

The proposed action would update Title 15, Division 1, Chapter 1, Subchapter 4 CCR adopting new and revised definitions to add clarity to the regulations; update reference to the Board of Corrections to Corrections Standards Authority to reflect legislative change; clarify that staff notify recipients of a pilot project or alternate means of compliance; clarify timeframes for emergency suspensions of standards; correct various grammatical errors; allow core training to be supplemented for 8 hours of training for court and temporary holding facility staff; clarify that fire suppression preplans are completed WITH the fire authority; require that policy and procedure include requirements for reporting incidents and also delete the requirement for submission within 24 hours; require that symptoms of communicable disease drive inmate segregation; clarify that continued retention in a safety cell or restraints is reviewed by specific personnel; require that safety checks in a sobering cell be documented; update the term “supervising officer” with “facility watch commander”; replace the term “mail” with “correspondence” in one subsection; require information about inmate voting and voter registration be provided at orientation; adds religious practices to religious observances; require that reviews of inmates on disciplinary isolation be documented; clarify language regarding safety checks for minors in custody; eliminate the requirement that verbal orders for involuntary psychotropic medications are signed by a physician within 72 hours; update the term “detention” with “custody;” update requirements for articles provided to minors in custody; clarify the requirements for intoxicated minors in detention; clarify the qualifications for health care staff; require health care procedures manuals to be reviewed biennially; delete the requirement that evaluations for mental health treatment be performed by licensed health personnel; update references to the correct Dietary Guides; and include daily and weekly averages for food groups. The effect of the proposed changes is further described below.

Comparable Federal Statute or Regulations

There are no comparable federal regulations or statutes.

Policy Statement Overview

The broad objective of the proposed action is to maintain regulations for local adult detention facilities in conformance with sound correctional practices and to ensure the safe and secure detention of incarcerated persons.

1006. Definitions. This regulation defines terms used throughout these regulations. To provide clarity and consistency to these regulations, four (4) have been amended, nine (9) have been added and two (2) have been deleted.

1007. Pilot Projects. This regulation describes the requirements for a facility electing to apply for a pilot project. Proposed revisions replace Board of Corrections with Corrections Standards Authority and clarify that staff notify recipients of acceptance of a pilot project; there is no operational impact.

1008. Alternate Means of Compliance. This regulation describes the requirements for a facility electing to apply for an Alternate Means of Compliance. Proposed revisions replace Board of Corrections with Corrections Standards Authority and clarify that staff notify recipients of acceptance of an alternate means of compliance; there is no operational impact.

1012. Emergency Suspension of Standards. This regulation outlines the steps that must be taken to suspend applicability of standards in the event of an emergency. Proposed revisions clarify the statement that suspensions lasting more than 15 days require approval of the CSA Chairperson and are effective for a specified time period; there is no operational impact.

1013. Criminal History Information. This regulation allows certain information to be accessible to CSA staff. Proposed revisions correct a grammatical error; there is no operational impact.

1024. Court Holding and Temporary Holding Facility Training. This regulation outlines training requirements for custodial personnel in court and temporary holding facilities. Proposed changes reflect actual practice; when Core training is completed, staff do not complete additional training prior to working in a court or temporary holding facility. Operational impact is minimal.

1032. Fire Suppression Preplanning. This regulation outlines the requirements for a facility's fire suppression preplan. Revisions clarify that the facility's fire suppression pre-plan is developed in cooperation with the local fire department, not by the local fire department. Proposed changes also clarify language for "policy and procedures manual." There is no operational impact.

1044. Incident Reports. This regulation outlines the requirements for incident reports in local detention facilities. Proposed changes add the requirement that policies and procedures outline steps for the reporting of incidents in addition to the maintenance of records and delete the requirement that a written record be submitted to the facility manager within 24 hours of the incident. Operational impact is minimal.

1046. Death in Custody. This regulation outlines specific procedures in the event of a death in custody. Proposed revisions replace Board of Corrections with Corrections Standards Authority and delete a redundant reference to the Board; there is no operational impact.

1051. Communicable Diseases. This regulation requires the facility manager to develop policy and procedures for dealing with communicable diseases within the facility and outlines criteria for plans when dealing with suspected communicable diseases. Proposed changes will require the facility administrator to specify what *symptoms* of communicable disease, rather than the specific disease, would require inmate segregation at any point in housing.

1055. Use of Safety Cell. This regulation describes the requirements for use of a safety cell. Proposed revisions clarify that continued retention in the safety cell is reviewed with the approval of the facility manager, watch commander or physician and clearly ties the placement and retention review together. There is no operational change.

1056. Use of Sobering Cell. This regulation describes the requirements for use of a sobering cell. Proposed revisions require that safety checks of inmates in sobering cells be documented.

1058. Use of Restraint Devices. This regulation outlines policy and procedure required when an inmate is placed in restraints for behavioral reasons. The proposed changes correct grammar and also join two sentences related to the approval of placement in restraints and review of retention in restraints. There is no operational impact.

1059. DNA Collection, Use of Force. This regulation outlines the steps that must be taken during a forced sampling of DNA in a local detention facility. The proposed change replaces the term “supervising officer” with “facility watch commander.” There is no operational impact.

1062. Visiting. This regulation outlines requirements for visitation in local detention facilities. Proposed changes replace the term “visitation” with “visiting” to clean up grammar. There is no operational impact.

1063. Correspondence. This regulation outlines policy and procedure requirements for inmate correspondence. The proposed change will replace the term “mail” with “correspondence” in (b). There is no operational impact.

1069. Inmate Orientation. This regulation outlines policy and procedure requirements for inmate orientation at the time of housing placement. Proposed changes would add a requirement

that inmate voting, including registration, be part of inmate orientation. There is minimal operational impact.

1072. Religious Observance. This regulation outlines the policy and procedure requirements for religious observances in local detention facilities. Proposed changes add the term “practices” to the regulation to ensure that additional religious requirements are available.

1080. Rules and Disciplinary Procedures. This regulation outlines the requirements for rules and disciplinary penalties to be conveyed to inmates in writing or verbally. The proposed change cleans up grammar and has no operational impact.

1081. Plan for Inmate Discipline. This regulation outlines the elements that must be included in a facility’s disciplinary policy and procedures. Proposed changes replace the term “removing” with “segregating” to ensure clarity in the regulation. There is no operational impact.

1083. Limitations on Disciplinary Action. This regulation outlines limitations on disciplinary actions in local detention facilities. Proposed changes include updating the phrase “cruel OR unusual” to “cruel AND unusual” punishment to comport with the federal and state constitutional prohibitions

Proposed changes also include the requirement that reviews of inmates on disciplinary isolation be documented; operational impact will be minimal.

1084. Disciplinary Records. This regulation requires that a record of all disciplinary action is documented. Proposed changes do not require operational change; grammatical errors are corrected.

1100. Purpose. This regulation outlines the purpose of this section of Title 15, which is applicable to Type II and III facilities that hold minors. Proposed changes correct grammatical errors and update references to the Board, replacing it with “Corrections Standards Authority.” There is no operational impact.

1104. Supervision of Minors. This regulation outlines the requirements for supervision of minors that are held in adult jails. Proposed changes clarify language to ensure that safety checks are completed at least once in every 30 minute period. There is no operational impact.

1125. Psychotropic Medications for Minors in Jail. This regulation outlines the requirements for the management of psychotropic medications for minors in jail. Proposed changes eliminate the requirement that verbal orders must be signed by a physician within 72 hours and instead create a performance based regulation.

1140. Purpose. This regulation establishes the purpose of Article 9, Minors in Temporary Custody in a Law Enforcement Facility, and describes where it is applicable. Proposed changes

reflect the workgroup's decision to change the term "detention" to "custody" throughout Article 9 and will not have operational impact.

1141. Minors Arrested for Law Violations. This regulation describes the requirements for minors who are held in secure or non-secure custody within a law enforcement facility. Proposed changes change the term "detention" to "custody." There is no operational impact.

1143. Care of Minors in Temporary Custody. This regulation requires facilities to provide certain articles and services to minors who are held in a law enforcement facility. Proposed changes delete the separate requirement for minors in locked rooms to be provided with blankets and clothing. Operational impact will be minimal.

1144. Contact Between Minors and Adult Prisoners. This regulation outlines separation requirements for minors and adult inmates in law enforcement facilities. Proposed language deletes the term "detained" to be consistent with definitional changes proposed. There is no operational impact.

1145. Decision on Secure ~~Detention~~Custody. This regulation outlines the criteria for minors that may be held in secure custody. Proposed changes change the term "detention" to "custody" and will not have operational impact.

1146. Conditions of Secure ~~Detention~~Custody. This regulation outlines the conditions that create a secure custody situation. Proposed changes change the term "detention" to "custody" and will not have operational impact.

1147. Supervision of Minors in Secure Custody ~~Held Inside a Locked Enclosure~~. This regulation outlines the requirements for supervision of minors in secure custody. Proposed changes change the term "detention" to "custody" and will not have operational impact.

Proposed changes also delete the term "unscheduled," and replace the term "no less than every" with "at least once every" to clarify that safety checks are to be completed at least once in every 30 minute timeframe. These changes will not require operational change.

1148. Supervision of Minors in Secure ~~Detention~~Custody Outside of a Locked Enclosure. This regulation outlines the requirements for supervision of minors held in secure custody outside of a locked enclosure. Proposed changes change the term "detention" to "custody" and will not have operational impact.

Proposed changes also replace the term "be present at all times" with "provide constant direct visual observation." There is no operational impact.

1149. Criteria for Non-Secure Custody. This regulation outlines the criteria for nonsecure custody. Proposed changes change the term "detention" to "custody" and will not have operational impact.

Proposed changes also delete the language “if a brief period of time is needed,” as it is unnecessary. This change will not impact operation.

1151. Minors Under the Influence of Any Intoxicating Substance in Secure or Non-Secure Custody ~~Intoxicated and Substance Abusing Minors in a Lockup~~. This regulation outlines the requirements for minors that are under the influence while in custody in a law enforcement facility. Proposed changes clarify expectations of custodial staff, but will not impact the current operation of law enforcement facilities that hold minors.

The title of the regulation has been changed from Intoxicated and Substance Abusing Minors in a Lockup to Minors Under the Influence of Any Intoxicating Substance in Secure or Non-Secure Custody to reflect actual circumstances in temporary custody.

Proposed changes replace the term “intoxicated by any substance” to “being under the influence of drugs, alcohol or any other intoxicating substance,” reflecting actual practice and clarifying the intent of the regulation.

Proposed changes replace the term secure “detention” with secure “custody in a locked room” to reflect changes made throughout the regulations.

Proposed changes modify the requirements for safety checks of minors under the influence in secure custody from “no less than once every 15 minutes” to “at least once every 15 minutes.

Proposed changes add language specific to intoxicated minors who are in secure detention outside of a locked enclosure.

1203. Health Care Staff Qualifications. This regulation describes the qualifications for health care personnel working in a local detention facility. Proposed changes clarify that the community standard is met and that health care personnel are working within the recognized scope of practice specific to their profession. There is no operational impact.

1205. Medical/Mental Health Records. This regulation describes the requirements for health care records in local detention facilities. Subsection (a) has been amended to add “in compliance with state statute to” and delete “which shall.” This amendment will not affect facility operations.

1206. Health Care Procedures Manual. This regulation outlines the minimum required components for the Health Care Procedures Manual. The proposed change would require that manuals are reviewed every two years, rather than annually. Operations may be positively impacted.

1208. Access to Treatment. This regulation describes the requirement that there be a written plan to address any medical, mental health or developmental disability issue for inmates at any time during their incarceration subsequent to the receiving screening. Proposed changes delete

the requirement that evaluations for treatment be performed by licensed health personnel and create specific language for the requirement of a written plan for assessment and treatment. Operational impact may be positive.

1217. Psychotropic Medications. This regulation outlines the requirements for the administration of psychotropic medications. The regulation was amended to delete “in written form in the inmate’s record.” Proposed changes also delete language that qualifies that a clinical evaluation could be conducted either in person or by telephone. Proposed changes also delete the sentence requiring that verbal orders shall be entered in the inmate’s record and signed by the physician within 72 hours. There will be minimal operational impact.

1241. Minimum Diet. This regulation describes the requirements for the minimum diet for inmates in local detention facilities. Proposed changes include updating the Dietary Reference Intakes of the Food and Nutrition Board, Institute of Medicine of the National Academies, the California Daily Food Guide and the Dietary Guidelines for Americans to reflect current standards. There is no operational impact as a result of this change.

Proposed changes also include daily or weekly averages of food group requirements and clarify the requirement that calcium includes milk or milk based products.

DISCLOSURE REGARDING THE PROPOSED ACTION

The CSA has made the following initial determinations:

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None

Cost to any local agency or school district which must be reimbursed in accordance with Government Code Sections 17500 through 17630: None

Other nondiscretionary costs or savings imposed on local agencies: None

Costs or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The CSA is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;

- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California

Significant effect on housing costs: None.

Small Business Determination:

The CSA has determined that the proposed regulations will have no effect on small businesses. These proposed regulations affect the operations and programs for Local Adult Detention Facilities.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the CSA must determine that no reasonable alternative it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The CSA invites interested parties to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearings or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Allison E. Ganter, Field Representative
600 Bercut Drive
Sacramento, CA 95814
(916) 445-5073
allison.ganter@cdcr.ca.gov

Gary Wion, Deputy Director
600 Bercut Drive
Sacramento, CA 95814
(916) 445-5073
Gary.wion@cdcr.ca.gov

Questions on the substance of the proposed regulation may be directed to Ms. Ganter or Mr. Wion.

Please direct requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other information upon which this rulemaking is based to Allison Ganter at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Rulemaking File, which includes all the information on which this proposal is based, is available for viewing at the CSA's office at the above address.

AVAILABILITY OF MODIFIED TEXT

If the CSA makes modifications that are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the CSA adopts the regulations as revised.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be accessed through the CSA website at <http://www.cdcr.ca.gov/CSA/index.html>. Those persons who do not have access to the Internet may submit a written request to Allison Ganter at the above address.

AVAILABILITY OF DOCUMENTS; INTERNET ACCESS

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulation in ~~strikeout~~ and underline can be accessed through our website at <http://www.cdcr.ca.gov/CSA/index.html>. Those persons who do not have access to the Internet may submit a written request to Allison Ganter at the above address.